

**Effective 5/12/2015**

**17-27a-306 Planning advisory areas.**

- (1)
- (a) A planning advisory area may be established as provided in this Subsection (1).
  - (b) A planning advisory area may not be established unless the area to be included within the proposed planning advisory area:
    - (i) is unincorporated;
    - (ii) is contiguous; and
    - (iii)
      - (A) contains:
        - (I) at least 20% but not more than 80% of:
          - (Aa) the total private land area in the unincorporated county; or
          - (Bb) the total value of locally assessed taxable property in the unincorporated county; or
        - (II)
          - (Aa) in a county of the second or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or
          - (Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or
      - (B) has been declared by the United States Census Bureau as a census designated place.
  - (c)
    - (i) The process to establish a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed planning advisory area is located.
    - (ii) A petition to establish a planning advisory area may not be filed if it proposes the establishment of a planning advisory area that includes an area within a proposed planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed planning advisory area under Subsection (1)(j).
  - (d) A petition under Subsection (1)(c) to establish a planning advisory area shall:
    - (i) be signed by the owners of private real property that:
      - (A) is located within the proposed planning advisory area;
      - (B) covers at least 10% of the total private land area within the proposed planning advisory area; and
      - (C) is equal in value to at least 10% of the value of all private real property within the proposed planning advisory area;
    - (ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a planning advisory area;
    - (iii) indicate the typed or printed name and current residence address of each owner signing the petition;
    - (iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;
    - (v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and
    - (vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a planning advisory area.

- (e) Subsection 10-2a-102(3) applies to a petition to establish a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.
- (f)
  - (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a planning advisory area in a county of the second class, the county clerk shall provide notice of the filing of the petition to:
    - (A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed planning advisory area; and
    - (B) each owner of real property owning more than 850 acres of real property within the proposed planning advisory area.
  - (ii) A property owner may exclude all or part of the property owner's property from a proposed planning advisory area in a county of the second class:
    - (A) if:
      - (I)
        - (Aa)
          - (li) the property owner owns more than 1% of the assessed value of all property within the proposed planning advisory area;
          - (Ilii) the property is nonurban; and
          - (IIIiii) the property does not or will not require municipal provision of municipal-type services; or
        - (Bb) the property owner owns more than 850 acres of real property within the proposed planning advisory area; and
      - (II) exclusion of the property will not leave within the planning advisory area an island of property that is not part of the planning advisory area; and
    - (B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).
  - (iii)
    - (A) The county legislative body shall exclude from the proposed planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).
    - (B) If the county legislative body excludes property from a proposed planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.
- (g)
  - (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:
    - (A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and
    - (B)
      - (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):
        - (Aa) certify the petition and deliver the certified petition to the county legislative body; and
        - (Bb) mail or deliver written notification of the certification to the contact sponsor; or
      - (II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

- (ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.
- (h)
  - (i) Within 90 days after a petition to establish a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a planning advisory area.
  - (ii) A public hearing under Subsection (1)(h)(i) shall be:
    - (A) within the boundary of the proposed planning advisory area; or
    - (B) if holding a public hearing in that area is not practicable, as close to that area as practicable.
  - (iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:
    - (A) at least once in a newspaper of general circulation in the county; and
    - (B) on the Utah Public Notice Website created in Section 63F-1-701.
  - (i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a planning advisory area to be submitted to voters residing within the proposed planning advisory area at the next regular general election that is more than 90 days after the public hearing.
  - (j) A planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a planning advisory area voted in favor of the proposal.
- (k) An area that is an established township before May 12, 2015:
  - (i) is, as of May 12, 2015, a planning advisory area; and
  - (ii)
    - (A) shall change its name, if applicable, to no longer include the word "township"; and
    - (B) may use the word "planning advisory area" in its name.
- (2) The county legislative body may:
  - (a) assign to the countywide planning commission the duties established in this part that would have been assumed by a planning advisory area planning commission designated under Subsection (2)(b); or
  - (b) designate and appoint a planning commission for the planning advisory area.
- (3)
  - (a) An area within the boundary of a planning advisory area may be withdrawn from the planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).
  - (b) The process to withdraw an area from a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.
  - (c) A petition under Subsection (3)(b) shall:
    - (i) be signed by the owners of private real property that:
      - (A) is located within the area proposed to be withdrawn from the planning advisory area;
      - (B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the planning advisory area; and
      - (C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the planning advisory area;
    - (ii) state the reason or reasons for the proposed withdrawal;
    - (iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the planning advisory area;

- (iv) indicate the typed or printed name and current residence address of each owner signing the petition;
  - (v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;
  - (vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and
  - (vii) request the county legislative body to withdraw the area from the planning advisory area.
- (d) Subsection 10-2a-102(3) applies to a petition to withdraw an area from a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.
- (e)
- (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:
    - (A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and
    - (B)
      - (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):
        - (Aa) certify the petition and deliver the certified petition to the county legislative body; and
        - (Bb) mail or deliver written notification of the certification to the contact sponsor; or
      - (II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
  - (ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.
- (f)
- (i) Within 60 days after a petition to withdraw an area from a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the planning advisory area.
  - (ii) A public hearing under Subsection (3)(f)(i) shall be held:
    - (A) within the area proposed to be withdrawn from the planning advisory area; or
    - (B) if holding a public hearing in that area is not practicable, as close to that area as practicable.
  - (iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:
    - (A) publish notice of the petition and the time, date, and place of the public hearing:
      - (I) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and
      - (II) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks; and
    - (B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.
- (g)
- (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the planning advisory area.
  - (ii) In making its decision as to whether to withdraw the area from the planning advisory area, the county legislative body shall consider:

- (A) whether the withdrawal would leave the remaining planning advisory area in a situation where the future incorporation of an area within the planning advisory area or the annexation of an area within the planning advisory area to an adjoining municipality would be economically or practically not feasible;
  - (B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:
    - (I) whether the proposed subsequent incorporation or withdrawal:
      - (Aa) will leave or create an unincorporated island or peninsula; or
      - (Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and
    - (II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;
  - (C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and
  - (D) whether justice and equity favor the withdrawal.
- (h) Upon the written decision of the county legislative body approving the withdrawal of an area from a planning advisory area, the area is withdrawn from the planning advisory area and the planning advisory area continues as a planning advisory area with a boundary that excludes the withdrawn area.
- (4)
- (a) A planning advisory area may be dissolved as provided in this Subsection (4).
  - (b) The process to dissolve a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.
  - (c) A petition under Subsection (4)(b) shall:
    - (i) be signed by registered voters within the planning advisory area equal in number to at least 25% of all votes cast by voters within the planning advisory area at the last congressional election;
    - (ii) state the reason or reasons for the proposed dissolution;
    - (iii) indicate the typed or printed name and current residence address of each person signing the petition;
    - (iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;
    - (v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and
    - (vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the planning advisory area.
  - (d)
    - (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:
      - (A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and
      - (B)
        - (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

- (Aa) certify the petition and deliver the certified petition to the county legislative body; and
- (Bb) mail or deliver written notification of the certification to the contact sponsor; or
- (II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.
- (e)
  - (i) Within 60 days after a petition to dissolve the planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to dissolve the planning advisory area.
  - (ii) A public hearing under Subsection (4)(e)(i) shall be held:
    - (A) within the boundary of the planning advisory area; or
    - (B) if holding a public hearing in that area is not practicable, as close to that area as practicable.
  - (iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:
    - (A) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and
    - (B) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks immediately before the public hearing.
  - (f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the planning advisory area to be submitted to voters residing within the planning advisory area at the next regular general election that is more than 90 days after the public hearing.
  - (g) A planning advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the planning advisory area voted in favor of the proposal.
- (5)
  - (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.
  - (b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Amended by Chapter 352, 2015 General Session